



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Suzanne Lee Chan, Vice Mayor
Anu Natarajan
Bill Harrison
Dominic Dutra

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Mark Danaj, Assistant City Manager

Dawn G. Abrahamson, City Clerk
Robert Beyer, Interim Community Dev. Director
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Annabell Holland, Community Services Director
Norm Hughes, City Engineer
Bruce Martin, Fire Chief
Jim Pierson, Public Works Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Brian Stott, Human Resources Director
Lori Taylor, Economic Development Director
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

**NOTICE AND AGENDA OF SPECIAL MEETING
CLOSED SESSION
CITY OF FREMONT**

DATE: Tuesday, April 26, 2011

TIME: 6:00 p.m.

LOCATION: Fremont Room, 3300 Capitol Avenue, Fremont-

CALL TO ORDER

ROLL CALL

PUBLIC COMMENT:

Any person desiring to speak on an item listed on this Notice, may do so now. The Mayor will limit the length of your presentation and each speaker may only speak once on each item.

CONFERENCE WITH LABOR NEGOTIATOR: The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Mark Danaj, Assistant City Manager; Brian Stott, Human Resources Director and Harvey Levine, City Attorney as the City's negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Association of Management Employees
Fremont Association of City Employees
Operating Engineers
Teamsters Local 856
Fremont Police Association
Professional Engineers and Technicians Association

CONFERENCE WITH LABOR NEGOTIATOR: The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Mark Danaj, Assistant City Manager; Brian Stott, Human Resources Director and Harvey Levine, City Attorney as the City's

negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Fire Fighters
Fremont Fire Fighters Battalion Chiefs

This Special Meeting is being called by Mayor Wasserman.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
APRIL 26, 2011
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – for the Regular Meeting of March 22, 2011, the Regular Meeting of April 5, 2011, and the Special and Regular Meetings of April 12, 2011*
- 2.3 **MAINTENANCE CENTER SWALE RECONSTRUCTION PROJECT**
APPROPRIATION AND CHANGE ORDER APPROVAL
Appropriate \$45,000 of Additional Funding and Approve a Change Order in the Amount of \$80,800 for the Maintenance Center Swale Reconstruction, City Project No. 8656 (PWC)

Contact Person:

<i>Name:</i>	<i>Daniel Chiu</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Engineer II Civil</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4755</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>dchiu@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATION:

1. *Authorize the City Manager or his designee to execute a change order in the amount of \$80,800 to Guerra Construction, Inc.*
2. *Appropriate \$45,000 to PWC 8656 from Fund 123 Urban Runoff Clean Water Program.*

2.4 ORDINANCE TO DISSOLVE THE ENVIRONMENTAL SERVICES ADVISORY COMMISSION

Introduction of an Ordinance to Dissolve the Environmental Services Advisory Commission and Delete Title 2, Chapter 3, Article 14, Sections 2-31400 through 2-41402 of the Fremont Municipal Code

Contact Person:

Name:	<i>Ken Pianin</i>	<i>Kathy Cote</i>
Title:	<i>Solid Waste Manager</i>	<i>Environmental Services Manager</i>
Dept.:	<i>Community Services</i>	<i>Community Services</i>
Phone:	<i>510-494-4582</i>	<i>510-494-4583</i>
E-Mail:	<i>kpianin@fremont.gov</i>	<i>kcote@fremont.gov</i>

RECOMMENDATION: *Introduce a draft ordinance dissolving the Environmental Services Advisory Commission and deleting Title 2, Chapter 3, Article 14, Sections 2-31400 through 2-41402 of the Fremont Municipal Code.*

2.5 FISCAL YEAR 2011/12 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 FUNDS

Resolution Authorizing Fiscal Year (FY) 2011/12 Transportation Development Act (TDA) Article 3 Grant Application and Acceptance of the TDA Article 3 Funds for Alder Avenue and Nicolet Avenue Sidewalk Improvement Project in the Vicinity of Los Cerritos Community Park and American High School

Contact Person:

Name:	<i>Rene Dalton</i>	<i>Kunle Odumade</i>
Title:	<i>Associate Transportation Engineer</i>	<i>Transportation Engineer</i>
Dept.:	<i>Public Works</i>	<i>Public Works</i>
Phone:	<i>510-494-4535</i>	<i>510-494-4746</i>
E-Mail:	<i>rdalton@fremont.gov</i>	<i>kodumade@fremont.gov</i>

RECOMMENDATION:

1. *Adopt a resolution authorizing the City Manager, or his designee, (a) to apply for Transportation Development Act Article 3 Bicycle and Pedestrian Program Funds in the amount of \$128,117 for the Alder Avenue and Nicolet Avenue Sidewalk Improvement Project for FY 2011/12; and (b) to accept any awarded grant funds for the Project and to execute any necessary implementing documents.*
2. *Appropriate any grant funds received to 107PWC8756, Alder Avenue and Nicolet Avenue Sidewalk Improvement Project.*

2.6 **FREMONT BART STATION ELECTRONIC BICYCLE LOCKER PROJECT**
*Accept Transportation Development Act Article 3 Funds for Fremont BART Station
Electronic Bicycle Locker Project and Appropriation of Funds*

Contact Person:

<i>Name:</i>	<i>Rene Dalton</i>	<i>Kunle Odumade</i>
<i>Title:</i>	<i>Associate Transportation Engineer</i>	<i>Transportation Engineer</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4535</i>	<i>510-494-4746</i>
<i>E-Mail:</i>	<i>rdalton@fremont.gov</i>	<i>kodumade@fremont.gov</i>

RECOMMENDATIONS:

1. *Accept Transportation Development Act Article 3 funds from the Metropolitan Transportation Commission in the amount of \$138,000 for the Fremont BART Electronic Bicycle Locker Project and authorize the City Manager or his designee to update the existing agreement and/or implement any other needed documents between the City of Fremont and the San Francisco Bay Area Rapid District (BART) to implement the project.*
2. *Appropriate the \$138,000 Transportation Development Act Article 3 funds to 107PWC8755, Fremont BART Electronic Bicycle Locker Project.*
3. *Transfer \$10,000 appropriation from 509PWC8541, Bicycle & Pedestrian project, to 509PWC8755, Fremont BART Electronic Bicycle locker project, to cover staff time costs to administer the project.*

2.7 **APPROVAL OF REJECTION OF ALL BIDS FOR THE CONSTRUCTION OF THE NEW STORAGE FACILITY AT FIRE STATION #6**
Approval of Rejection of All Bids for the Construction of the New Storage Facility at Fire Station # 6 (City Project No. PWC 8741), APN # 501-521-019

Contact Person:

<i>Name:</i>	<i>Michael Ma</i>	<i>Robert Kalkbrenner</i>
<i>Title:</i>	<i>Project Manager</i>	<i>Civic Facilities Development Manager</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4750</i>	<i>510-494-4428</i>
<i>E-Mail:</i>	<i>mma@fremont.gov</i>	<i>rkalkbrenner@fremont.gov</i>

RECOMMENDATION: *Reject all bids and authorize staff to rebid the construction contract for the Storage Facility at Fire Station #6, City Project No. 8741 (PWC).*

2.8 **FY 2010/11 CONTRACT AMENDMENTS FOR AGING AND FAMILY SERVICES**
Authorize the City Manager to Sign FY 2010/11 Contract Amendments with the Alameda County Area Agency on Aging for Case Management, Family Caregiver Support, and the Senior Center; and Appropriate Additional Funds

Contact Person:

<i>Name:</i>	<i>Karen Grimsich</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>Administrator</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510-574-2062</i>	<i>510-574-2051</i>
<i>E-Mail:</i>	<i>kgrimsich@fremont.gov</i>	<i>sshensif@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or designee to execute the FY 2010/11 contract amendments with the Area Agency on Aging for case management, caregiver support and senior center programs as described in the staff report; and appropriate an additional \$5,327 to Fund 106 and \$9,617 to Fund 173.

2.9 AMEND EMPLOYER-EMPLOYEE RELATIONS RESOLUTION 9697 TO REFLECT ADDITIONAL BARGAINING UNIT

Amend the City's Employer-Employee Relations Resolution 9697 to Reflect the Addition of the Police Management Unit as a Bargaining Unit; Add Appendix H to the Resolution to Reflect the Additional Bargaining Unit

Contact Person:

<i>Name:</i>	<i>Brian Stott</i>
<i>Title:</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Resources</i>
<i>Phone:</i>	<i>(510)-494-4664</i>
<i>E-Mail:</i>	<i>bstott@fremont.gov</i>

RECOMMENDATION: Adopt the amendments to Resolution 9697, Employer-Employee Relations Rules and Regulations, and a new appendix H to the resolution.

2.10 FREMONT LANDSCAPING MAINTENANCE DISTRICT 88

Adopt a Resolution Ordering the Preparation and Filing of the Annual Engineer's Report for Landscaping Assessment District 88 and Adopt a Resolution Stating the City Council's Intention to Levy Assessments for Landscape Assessment District 88 for Fiscal Year 2011/12

Contact Person:

<i>Name:</i>	<i>Andrew Russell</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Senior Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4534</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>arussell@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATION:

- 1. Adopt a resolution ordering the preparation and filing of the annual Engineer's Report for Landscaping Assessment District 88 for Fiscal Year 2011/12.*
- 2. Adopt a resolution stating the intent of the City Council of the City of Fremont to levy and collect assessments for Fremont Landscaping Assessment District 88 for Fiscal Year 2011/12.*

3. CEREMONIAL ITEMS – None.

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 COUNCIL POLICY ON LABOR NEGOTIATIONS 2011: GUIDELINES
City Council Policy on Labor Negotiations 2011: Guidelines for Council
Consideration

Contact Person:

Name: Brian Stott

Title: Human Resources Director

Dept.: Human Resources

Phone: 510-494-4664

E-Mail: bstott@fremont.gov

Mark Danaj

Assistant City Manager

City Manager's Office

510-284-4005

mdanaj@fremont.gov

RECOMMENDATION: Review and consider for adoption the attached Draft Policy
on Labor Negotiations 2011: Guidelines.

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals

8.1.1 VICE MAYOR CHAN REFERRAL: Request Staff to Explore Reducing the Number of Regular City Council Meetings

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



REPORT SECTION
FREMONT CITY COUNCIL
REGULAR MEETING

APRIL 26, 2011

***2.3 MAINTENANCE CENTER SWALE RECONSTRUCTION PROJECT
APPROPRIATION AND CHANGE ORDER APPROVAL**

Appropriate \$45,000 of Additional Funding and Approve a Change Order in the Amount of \$80,800 for the Maintenance Center Swale Reconstruction, City Project No. 8656 (PWC)

Contact Person:

Name:	Daniel Chiu	Norm Hughes
Title:	Engineer II Civil	City Engineer
Dept.:	Public Works	Public Works
Phone:	510-494-4755	510-494-4748
E-Mail:	dchiu@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to request approval of additional funding in the amount of \$45,000 from the Urban Runoff Clean Water Program and approval of a change order in the amount of \$80,800 for the Maintenance Center Swale Reconstruction, City Project No. 8656 (PWC).

BACKGROUND: On February 24, 2009, the City Council awarded the contract for the Maintenance Center Swale Reconstruction, City Project No. 8656 (PWC), in the amount of \$97,492 as part of the Capital Improvement Program. The project completed the reconstruction of two vegetated swales along the western side of the Maintenance Center to current standards.

The Maintenance Center was designed and constructed with two large seventeen foot wide by up to five foot deep vegetated bioswales to store and treat storm water prior to discharging it to the public storm drain at the rear of the site. These swales were included in the design before bioswales were common or required by the City's storm water permit with the State. As such, they did not include design details that are now known to be successful in preventing the problems that occurred with this swale. Because of the size and slope of the swales, the flow lines that were seeded with native fescue on clay soil became eroded and did not drain completely after rains creating a persistent mosquito problem. Also the seeded slopes of the swales became weed infested. To address this problem, it was determined that the flow line needed to be reconstructed with larger rock rip rap areas at each entrance to the swale and permeable soil with a subdrainage system below the grass surface. Also, the swale areas needed to be stripped of all vegetation and replanted with sod and new shrubs.

DISCUSSION/ANALYSIS: During construction, it was determined that the design details provided by the City's consultant, while updated from the original construction, did not adequately address the drainage challenges of such a large swale. This resulted in significant reworking of the new construction on a time and materials basis as the City needed to complete the work before rains returned. Staff tracked all time, equipment and material used for this reconstruction effort, but it has taken until now to reach an agreement with the contractor for additional compensation. The swale functioned well this winter.

Additional design and reconstruction of the swale flow line was required. The swale when completed still did not drain correctly, resulting in water ponding in the swale. The project design included the use of compost and cardboard at the flow line of the swale, which was intended to provide better filtering as well as weed control. The design, however, significantly reduced percolation rates, which proved to be

detrimental for such a large swale. Staff sampled and tested the swale media in a controlled environment to assess the design. After testing, it was decided that another further redesign and construction of the swale was needed. The revised design of the swale incorporated the use of a higher percolating treatment soil and removal of the compost and cardboard at the swale flow line. The additional construction was done by hand and with smaller equipment because the swale flow line was confined by newly installed shrubs and other landscape on the side slopes of the swale. Precautions had to be taken in order to prevent any damage to the upper portions of the swale. The additional cost for this work is \$80,800.

In addition to this primary cost increase, there were several minor revisions and additions that were identified as needed during the course of the construction that totaled \$32,940. This included additional weed mitigation adjacent to the swale, repair of a sinkhole in the swale, replacement of unsuitable material, erosion repair, header board installation and staff time to administer the extra work.

In summary, the additional costs identified above are as follows:

Swale reconstruction	\$80,800
Miscellaneous revisions	<u>\$32,940</u>
Total	\$113,740

The project budget contained \$18,000 for supplemental work and \$55,000 for contingencies that cover the majority of the cost for the change order work and for extra staff time to date. For the remaining shortfall, staff is recommending that \$45,000 be appropriated to the project from Fund 123, Urban Runoff Clean Water Program. The contractor's compensation has been increased to date by \$13,700 of supplemental work within the contract for the weed mitigation and a change order to increase the contract in the amount of \$14,742 for the smaller extra work items. Staff recommends City Council approve a change order for the remaining compensation due the contractor for the swale reconstruction in the amount of \$80,800.

FISCAL IMPACT: The recommended appropriation of \$45,000 is available from Urban Runoff Clean Water Program and does not impact the General Fund.

ENVIRONMENTAL REVIEW: N/A

ENCLOSURE: None

RECOMMENDATION:

1. Authorize the City Manager or his designee to execute a change order in the amount of \$80,800 to Guerra Construction, Inc.
2. Appropriate \$45,000 to PWC 8656 from Fund 123 Urban Runoff Clean Water Program.

***2.4 ORDINANCE TO DISSOLVE THE ENVIRONMENTAL SERVICES ADVISORY COMMISSION**

Introduction of an Ordinance to Dissolve the Environmental Services Advisory Commission and Delete Title 2, Chapter 3, Article 14, Sections 2-31400 through 2-41402 of the Fremont Municipal Code

Contact Person:

Name:	Ken Pianin	Kathy Cote
Title:	Solid Waste Manager	Environmental Services Manager
Dept.:	Community Services	Community Services
Phone:	510-494-4582	510-494-4583
E-Mail:	kpianin@fremont.gov	kcote@fremont.gov

Executive Summary: Due to the low level of agenda items requiring action by the Environmental Services Advisory Commission (Commission), staff is recommending the City Council introduce an ordinance to dissolve the Commission. The Commission was originally formed in 1989, to advise the Council on policies needed to comply with the State mandate to reduce landfilled waste by fifty percent. The Commission has fulfilled that mission and the City is now in a program implementation phase. As a result, there has been a lack of ongoing policy action items that require review by the Environmental Services Advisory Commission. Since 2008, the Commission has met only five times, and was able to obtain a quorum for only three meetings during that time.

BACKGROUND/DISCUSSION: The Environmental Services Advisory Commission was originally formed in 1989 to provide policy and program recommendations that would aid the City in achieving compliance with the California Integrated Waste Management Act (AB939). AB939 mandated that cities and counties in California implement waste reduction programs to reach a fifty percent reduction in the amount of materials landfilled by the year 2000. The City of Fremont met that requirement in 1999. The Environmental Services Advisory Commission played a role in developing strategies for enhanced recycling collection services and key infrastructure development, such as the Fremont Transfer Station, which opened in 2006. The City is now in a program implementation phase, and is addressing technical operating issues rather than establishing policy direction. For the past several years, few significant action items have been brought before the Environmental Services Advisory Commission. Those items have been largely routine in nature, such as adjusting the solid waste service rates, a requirement that has clearly defined adjustment methodologies in the contracts with the City's various service providers.

Currently, the Environmental Services Advisory Commission has too many unfilled positions to reach a quorum. For more than three years, at least half of all scheduled meetings have had to be cancelled or lacked a quorum.

The City's Environmental Services Division staff has contacted each Commissioner to discuss the possibility of dissolving the Environmental Services Advisory Commission. The Commissioners concurred that it was not a productive use of their time or limited staff resources to convene meetings if there is no action to be taken. All Commissioners acknowledged that there has been a lack of substantive issues requiring commission action and recognized that fewer action items have been

brought before the Advisory Commission in recent years. Commissioners generally expressed their desire to see the City continue to pursue effective waste reduction and recycling activities.

Although none of the Commissioners who were contacted voiced any opposition to dissolving the Environmental Services Advisory Commission, staff has since heard that some members of the Tri-City Ecology Center have the desire to continue to take part in environmental program discussions. To provide for such public input, the City Council could from time to time form an ad hoc committee such as the Green Task Force to focus on specific project areas.

The Environmental Services Advisory Commission was part of an efficiency review of thirteen City boards and commissions that resulted in the recommendation to dissolve two commissions. As a result, there may be another recommendation for dissolution in the near future.

FISCAL IMPACT: There is no significant fiscal impact to dissolving the Environmental Services Advisory Commission; however, this change would allow Environmental Services Division staff to focus on other program priorities.

ENVIRONMENTAL REVIEW: This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) under California Code of Regulations Title 14, Section 15061 (b)(3), in that it is not a project that has the potential for causing significant effect on the environment.

ENCLOSURE: [Draft Ordinance](#)

RECOMMENDATION: Introduce a draft ordinance dissolving the Environmental Services Advisory Commission and deleting Title 2, Chapter 3, Article 14, Sections 2-31400 through 2-41402 of the Fremont Municipal Code.

***2.5 FISCAL YEAR 2011/12 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 FUNDS**

Resolution Authorizing Fiscal Year (FY) 2011/12 Transportation Development Act (TDA) Article 3 Grant Application and Acceptance of the TDA Article 3 Funds for Alder Avenue and Nicolet Avenue Sidewalk Improvement Project in the Vicinity of Los Cerritos Community Park and American High School

Contact Person:

Name:	Rene Dalton	Kunle Odumade
Title:	Associate Transportation Engineer	Transportation Engineer
Dept.:	Public Works	Public Works
Phone:	510-494-4535	510-494-4746
E-Mail:	rdalton@fremont.gov	kodumade@fremont.gov

Executive Summary: The Metropolitan Transportation Commission (MTC) makes annual allocations of State Transportation Development Act (TDA) Article 3 funds for bicycle and pedestrian projects to cities and counties in the nine-county Bay Area region. The City of Fremont is eligible for \$128,117 in TDA Article 3 funds for Fiscal Year (FY) 2011/12. Staff has identified the Alder Avenue and Nicolet Avenue Sidewalk Improvement Project as the highest priority project for the TDA Article 3 funds application. The proposed project is along the frontage of Los Cerritos Community Park and is in the vicinity of American High School and Brookvale Elementary School. To complete the City's application, staff recommends that the City Council approve the proposed project and adopt a resolution authorizing the City Manager, or his designee to apply for FY 2011/12 TDA Article 3 funds. If the City is awarded the grant funds, staff further recommends that the City Council authorize the City Manager or his designee to accept the TDA Article 3 funds and appropriate the award amount to the project.

BACKGROUND: The Metropolitan Transportation Commission (MTC) makes annual allocation of State Transportation Development Act (TDA) Article 3 funds for bicycle and pedestrian projects to cities and counties in the nine-county Bay Area region. The City of Fremont is eligible for \$128,117 in TDA Article 3 funds for the FY 2011/12 fund cycle. Staff has identified the Alder Avenue and Nicolet Avenue Sidewalk Improvement Project as the priority project for the TDA Article 3 fund application. The proposed project is located along the frontage of Los Cerritos Community Park and is in the vicinity of American High School and Brookvale Elementary School.

On November 17, 2010, the City's Bicycle and Pedestrian Technical Advisory Committee (BPTAC) approved and recommended to the City's Bicycle Advisory Committee (BAC) the Alder Avenue and Nicolet Avenue Sidewalk Improvement Project for the FY 2011/12 TDA Article 3 grant fund application submittal to MTC. The City received letters of support for the project from American High School and the Brookvale Elementary School PTA, the principals of each school and the Fremont Unified School District's Superintendent. At the March 2, 2011 BAC meeting, the BAC reviewed and approved the Alder Avenue and Nicolet Avenue Sidewalk Improvement Project for the City's TDA Article 3 grant application for FY 2011/12. The BPTAC consists of five bicycle and pedestrian advocates residing or working in Fremont and is advisory to staff. The City of Fremont Recreation Commission acts as the BAC and is advisory to Council.

Discussion: The City of Fremont's Bicycle and Pedestrian Plan encourages development of safe and continuous routes to school. The City is applying for TDA Article 3 funds to improve the pedestrian routes to Brookvale Elementary School and American High School and walkability in the neighborhood adjacent to Los Cerritos Community Park. According to the City's General Plan, providing safe and separate pathways for children to walk is an effective means of improving traffic safety.

The proposed project involves the construction of approximately 1,000 feet of new sidewalk, landscaped planter strip, and new ADA ramps in the Los Cerritos Community Park along Alder Avenue and on a short segment along Nicolet Avenue (see attached project vicinity map). Construction of sidewalk and curb ramps would result in improving intersection accessibility and close a sidewalk gap between American High School and Brookvale Elementary School. The two schools are connected by Alder Avenue and Nicolet Avenue, with both schools surrounded by homes and Los Cerritos Community Park. Brookvale Elementary School and American High School generate a high number of pedestrian trips during the AM peak hour and the afternoon school peak hour. American High School has a student population of approximately 2,075 students and Brookvale Elementary School has a student population of approximately 500 students. Los Cerritos Park also hosts multiple community activities and various youth league sports activity. Based on the pedestrian activity and need for a pedestrian pathway, staff recommends the Council approve the proposed project for the City's FY 2011/12 TDA Article 3 Bicycle and Pedestrian Program grant application.

FISCAL IMPACT: The estimated cost of the project is \$325,000. The TDA Article 3 funds grant request is the full \$128,117 the City is eligible to receive. The remaining \$200,000 is included in the Measure B Bicycle and Pedestrian funds in the City's proposed FY 2011/12 CIP. Assuming Council adoption of the CIP in June, these funds would become available in July 2011.

ENVIRONMENTAL REVIEW: This project is categorically exempt under Section 15301 (c) of the California Environmental Quality Act Guidelines, as the maintenance and minor alteration of existing facilities. A Notice of Exemption will be filed with the County Clerk.

ENCLOSURES:

- [Draft Resolution](#)
- [Project Vicinity Map](#)

RECOMMENDATION:

1. Adopt a resolution authorizing the City Manager, or his designee, (a) to apply for Transportation Development Act Article 3 Bicycle and Pedestrian Program Funds in the amount of \$128,117 for the Alder Avenue and Nicolet Avenue Sidewalk Improvement Project for FY 2011/12; and (b) to accept any awarded grant funds for the Project and to execute any necessary implementing documents.
2. Appropriate any grant funds received to 107PWC8756, Alder Avenue and Nicolet Avenue Sidewalk Improvement Project.

***2.6 FREMONT BART STATION ELECTRONIC BICYCLE LOCKER PROJECT**
Accept Transportation Development Act Article 3 Funds for Fremont BART Station
Electronic Bicycle Locker Project and Appropriation of Funds

Contact Person:

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Executive Summary: On December 11, 2007, the City Council approved allocation of a portion of the City's Fiscal Year (FY) 2007/08 Transportation Development Act (TDA) Article 3 Bicycle and Pedestrian funds in the amount of \$138,000 to the San Francisco Bay Area Rapid District (BART) Electronic Bicycle Locker Project. The project originally called for BART to furnish and install 36 new electronic bicycle lockers at the Fremont BART Station by June 30, 2010 which was the FY 2007/08 TDA Article 3 funds deadline. Because of project delays experienced by BART, the project was rescheduled and is now on track to be completed by summer 2011. The Metropolitan Transportation Commission (MTC), which administers the TDA Article 3 funds, rescinded the \$138,000 fund amount (originally programmed for the FY 2007/08 TDA Article 3 funding cycle) and reallocated the funds to the FY 2010/11 TDA Article 3 funding cycle in order to accommodate the project's new completion date. Staff recommends that the City Council accept the \$138,000 TDA Article 3 funds from MTC for the Fremont BART Electronic Bicycle Locker Project, and authorize the City Manager or his designee to update the existing agreement and/or implement any other needed documents between the City and BART to implement the project. Staff further recommends that the City Council appropriate the grant funds received to 107PWC8755, Fremont BART Electronic Bicycle Locker Project.

BACKGROUND: On December 11, 2007, Council approved allocation of a portion of the City's FY 2007/08 TDA Article 3 funds to the Fremont BART Electronic Bicycle Locker Project. The project originally required BART to furnish and install 36 new electronic bicycle lockers at the Fremont BART Station by June 30, 2010, which was the FY 2007/08 TDA Article 3 funds cycle deadline. Because of project delays experienced by BART, the project should now be completed by summer 2011. MTC, which administers the TDA Article 3 funds rescinded the \$138,000 fund amount (originally programmed for the FY 2007/08 funding cycle) and reallocated it to the FY 2010/11 funding cycle in order to accommodate the project's new completion date.

DISCUSSION: The Fremont BART Electronic Bicycle Locker Project is a much needed project that conforms to the City's Bicycle Master Plan's recommendation to provide secure and accessible bicycle parking facilities at public activity centers. According to BART staff, Fremont has one of the highest demands for bicycle locker use with over 50 people on the current bicycle locker waiting list. There are currently 17 bicycle lockers at the Fremont BART station. The bicycle lockers are old and outdated. BART will be responsible for the removal of the existing 17 bicycle lockers at the Fremont station and the installation of 36 new electronic bicycle lockers. Upon completion of the project, BART will assume ownership of the bicycle lockers. BART will also be responsible for the operations and maintenance of

the 36 bicycle lockers for their useful life. The Fremont BART Electronic Bicycle Locker Project is scheduled to be completed by July 31, 2011.

The City Council previously approved this project as part of the Citywide Bicycle Parking Facilities project in the FY 2007/08 TDA Article 3 funding cycle. In order to complete the bicycle locker portion of the original project, staff recommends that the City Council accept the TDA Article 3 funds in the amount of \$138,000 for the Fremont BART Electronic Bicycle Locker Project, and authorize the City Manager or his designee to update the existing agreement and/or implement any other needed documents between the City and BART to implement the project. Staff further recommends that the City Council appropriate the grant funds received to 107PWC8755 for the Fremont BART Electronic Bicycle Locker Project.

FISCAL IMPACT: The estimated cost of the City's share of the Fremont BART Station Electronic Bicycle Locker Project is the TDA Article 3 funds in the amount of \$138,000 to cover the capital cost of the lockers. BART will be responsible for the remaining administrative, design and construction cost of the project. Any additional staff time needed to administer the project (coordination with BART) would come from the City's Measure B Bicycle and Pedestrian Program funds, 509PWC8541. There is currently \$154,000 remaining in PWC8541. Staff recommends council transfer \$10,000 from PWC8541 to the Fremont BART Electronic Bicycle Locker Project 107PWC8755.

ENVIRONMENTAL REVIEW: This project is categorically exempt under Section 15301 (c) of the California Environmental Quality Act (CEQA) Guidelines, as the maintenance and minor alteration of existing facilities.

ENCLOSURE: None.

RECOMMENDATIONS:

1. Accept Transportation Development Act Article 3 funds from the Metropolitan Transportation Commission in the amount of \$138,000 for the Fremont BART Electronic Bicycle Locker Project and authorize the City Manager or his designee to update the existing agreement and/or implement any other needed documents between the City of Fremont and the San Francisco Bay Area Rapid District (BART) to implement the project.
2. Appropriate the \$138,000 Transportation Development Act Article 3 funds to 107PWC8755, Fremont BART Electronic Bicycle Locker Project.
3. Transfer \$10,000 appropriation from 509PWC8541, Bicycle & Pedestrian project, to 509PWC8755, Fremont BART Electronic Bicycle locker project, to cover staff time costs to administer the project.

***2.7 APPROVAL OF REJECTION OF ALL BIDS FOR THE CONSTRUCTION OF THE NEW STORAGE FACILITY AT FIRE STATION #6**

Approval of Rejection of All Bids for the Construction of the New Storage Facility at Fire Station # 6 (City Project No. PWC 8741), APN # 501-521-019

Contact Person:

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Executive Summary: On March 22, 2011, thirteen bids were received for the construction contract of the new storage facility located at Fire Station #6. The apparent low-bidder is Pacific-Mountain Contractors of California, Inc. Three days later after the City issued the Notice of Intent to Award, ARC, the City's contracted blue print company, informed staff that they mistakenly excluded one plan sheet from some of the bid sets. Due to the blue printer's error, staff believes that the current bids do not represent the City's best interest and recommends that the City Council consent to reject all bids, and authorize staff to re-solicit bids for the construction of the new storage facility at Fire Station #6.

BACKGROUND: The Fire Storage Facility at Fremont Fire Station # 6 is part of the \$51 million voter approved Measure R Fire Safety Bond of 2002 calling for fire facility seismic performance improvements and building renovation. The bond measure calls for seismic retrofitting and renovating seven of the ten existing fire stations, building three new fire stations to replace existing deficient facilities, and constructing public safety training facilities. Renovations planned in the bond measure included providing sufficient indoor parking storage for all of the Fire Department apparatus.

The intent of this project is to improve Fire Department operations by providing sufficient enclosed parking to protect and maintain the operating Fire vehicles and apparatus for maximum operating lives. The use of storage buildings is a cost effective approach when storing EMS equipment and supplies compared to using Fire stations that are built to a higher essential services standard that costs approximately \$300 more per square foot to construct.

PROJECT DESCRIPTION: The project involves the construction of a pre-engineered storage building at Fire Station # 6 to house two reserve Fire apparatus in a 4,220 square foot facility (including mezzanine storage). The new structure will be built in the rear yard of the Fire station.

Discussion: The construction bid documents were advertised on February 22, 2011, and March 1, 2011. The engineer's estimate is \$680,000. Thirteen bids were received and opened on March 22, 2011. The bids ranged from \$427,385 to \$687,702. The bidders with their respective bid amounts are shown below:

Contractor	Base Bid Total	Rank
Pacific-Mountain Contractors of California, Inc.	\$427,385*	1
Diede Construction	\$462,477	2
Calstate Construction	\$497,300	3
ICC General Contractors, Inc.	\$498,600	4
BCI Builders, Inc.	\$539,500	5
Aztec Consultants	\$552,815	6
GCCI, Inc.	\$572,500	7
Ron Paris Construction Co., Inc.	\$583,396*	8
R.C. Benson & Sons, Inc.	\$595,800	9
River View Construction, Inc.	\$598,500	10
Romkou, Inc.	\$650,467	11
Ionian Construction, Inc.	\$666,000	12
Kuehne Construction	\$687,702	13

*Mathematically Corrected

The apparent low bidder, Pacific Mountain Contractors of California, Inc., submitted a base bid in the amount of \$427,385 and all required documentation. Three days after the bid opening, ARC (the City's contracted blue print company) informed staff that Sheet M2.2- Mechanical (HVAC) Roof Plan was mistakenly excluded from the bid sets. Staff contacted the two next lowest bidders to verify if any bid sheets were missing. Pacific-Mountain Contractors of California, Inc., and one other bidder confirmed that the sheet was not included, while a third bidder stated the sheet was included.

The missing sheet contains important information that may have direct and/or indirect cost impacts to the bid price. The missing sheet in some, but not all of the bid packets has created confusion in the bidding process, may have created an inequitable bidding situation and could increase the potential for otherwise unnecessary change orders. Rebidding the project will avoid confusion and maintain the integrity of the bid process. Staff recommends the City Council reject all bids, and authorize staff to rebid the project.

Although there is no guarantee that re-bidding will result in better bids, staff believes a prompt re-bidding of the contract without significant changes in the scope will allow the full interest of the contracting community to be realized. The anticipated benefits from a re-bid should outweigh the potential risks associated with award of the contract under these circumstances.

BUDGET: The project budget totals \$734,000. This budget includes estimated staff and consultant costs, design costs, construction costs, site clean up costs, and contingencies.

APPROPRIATIONS:

Funds from estimated revenues from the sale of the one acre parcel adjacent to Fire Station # 6	
appropriated to PWC8741 for this project	\$734,000
Recommended additional appropriations	<u>\$ 0</u>
Total Project Budget	\$734,000

DESIGN CONSULTANT: Roy Associates (Mechanical, Electrical, & Plumbing)

ENCLOSURE: None

RECOMMENDATION: Reject all bids and authorize staff to rebid the construction contract for the Storage Facility at Fire Station #6, City Project No. 8741 (PWC).

***2.8 FY 2010/11 CONTRACT AMENDMENTS FOR AGING AND FAMILY SERVICES**
Authorize the City Manager to Sign FY 2010/11 Contract Amendments with the Alameda County Area Agency on Aging for Case Management, Family Caregiver Support, and the Senior Center; and Appropriate Additional Funds

Contact Person:

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Executive Summary: The Alameda County Area Agency on Aging (AAA) contracts with the Aging and Family Services Division (AFS) of the Human Services Department for \$113,503 in support of the Case Management, Family Caregiver Support and Senior Center programs. This year, AAA has sent the City contract amendments authorizing an additional \$14,944 in one-time-only funding for the current fiscal year. Executing these amendments would increase the total amount of the contracts from \$113,503 to \$128,447. Staff recommends the City Council authorize the City Manager to sign the FY 2010/11 contract amendments and appropriate the additional \$14,944, because the total amount of the City's contracts with Alameda County exceed \$100,000 for this fiscal year.

BACKGROUND: The Alameda County Area Agency on Aging (AAA) contracts with the City of Fremont Human Services Department for Case Management, Family Caregiver Support and Senior Center programs. The total value of these contracts is \$113,503. Under the Fremont Municipal Code, the City Manager is authorized to sign contracts only up to \$100,000 per fiscal year per contractor.

DISCUSSION/ANALYSIS:

Case Management Program: AFS has received Older American's Act Funding to provide case management services to Tri-City residents since 1986. AFS provides case management services to approximately 250 seniors and their families each year. The case management program is designed to help frail seniors find the services they need to live safely in their own homes in spite of failing health and shrinking social support. Case managers conduct home visits to determine the needs of seniors and develop plans of care that allow seniors to acquire the support needed to function in a community setting and avoid unnecessary use of emergency services and premature institutionalization. This year's contract is for \$27,841. AAA has authorized an additional \$5,327 to this program for the current fiscal year, bringing the total contract amount to \$33,168.

Family Caregiver Support Program: AAA has also awarded AFS funding through the National Family Caregiver Support Program since it became available in 2002. The purpose of the National Family Caregiver Support Program is to fund programs that provide support to the caregiver. The City of Fremont Caregiver Program provides a professional assessment of caregiver needs, individual counseling for caregivers, support groups, and educational workshops, all of which are designed to reduce caregiver burden. The program serves approximately 80 caregivers and care receivers each year. The FY 2010/11 AAA contract is for \$74,995. AAA has authorized an additional \$7,576 to this program for the current fiscal year, bringing the total contract amount to \$82,571.

Senior Center Program: Since 2005, the AAA has provided approximately \$10,000 a year in Older American's Act funding to the Senior Center to support ethnic programming. These funds help sustain senior center operations and are targeted to programs that serve cultural communities. This year's contract is for \$10,667. AAA has authorized an additional \$2,041 to this program for the current fiscal year, bringing the total contract amount to \$12,708.

Table 1: AAA Contract Amounts

Fund	Contract	Current Contract Amount	Additional Appropriation	Amended Contract Amount
106	Case Management	\$27,841	\$5,327	\$33,168
173	Family Caregiver	74,995	7,576	82,571
	Senior Center	10,667	2,041	12,708
		\$113,503	\$14,944	\$128,447

FISCAL IMPACT: AAA funding is used to support staffing and other program expenses associated with these programs in the Aging and Family Services Division of the Human Services Department. The additional appropriation will offset costs within the Department's Special Revenue Fund.

ENVIRONMENTAL REVIEW: N/A

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or designee to execute the FY 2010/11 contract amendments with the Area Agency on Aging for case management, caregiver support and senior center programs as described in the staff report; and appropriate an additional \$5,327 to Fund 106 and \$9,617 to Fund 173.

***2.9 AMEND EMPLOYER-EMPLOYEE RELATIONS RESOLUTION 9697 TO REFLECT ADDITIONAL BARGAINING UNIT**

Amend the City's Employer-Employee Relations Resolution 9697 to Reflect the Addition of the Police Management Unit as a Bargaining Unit; Add Appendix H to the Resolution to Reflect the Additional Bargaining Unit

Contact Person:

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Executive Summary: Resolution 9697, the City's Employer-Employee Relations Rules and Regulations, requires the Municipal Employee Relations Officer to establish appropriate bargaining units for the purpose of meeting and conferring. Existing bargaining units are identified in Section 9, subsection (e) of the Resolution, and a listing of each existing bargaining unit and the classifications assigned to the unit are contained in appendices A through G, attached thereto. The Municipal Employee Relations Officer has determined that a unit consisting of the classifications of Police Captain and Police Lieutenant is an appropriate bargaining unit. This amendment will make the necessary changes to Section 9, subsection (e) to create a new Police Manager Unit and add Appendix H, assigning the classifications of Police Captain and Police Lieutenant to the Police Management Unit.

BACKGROUND: On February 15, 2011, the Police Captains and Lieutenants submitted a petition to the City to form a bargaining unit consisting of sworn Police Captains and Lieutenants. The Police Captain and Police Lieutenant classifications are currently assigned to the bargaining unit for management employees.

DISCUSSION/ANALYSIS: Resolution 9697, Employer-Employee Relations Rules and Regulations, Section 9, subsection (f), and California Government Code Section 3508, allow full time peace officers to be represented by employee organizations of their own choosing provided that the employee organization is composed solely of such peace officers, concerns itself solely and exclusively with the wages, hours, working conditions, welfare programs and the advancement of the academic and vocational training in the furtherance of the police profession, and is not subordinate to any other organization.

The Municipal Employee Relations Officer, having reviewed the petition, has determined that the proposed unit consisting solely of full time peace officers is an appropriate unit pursuant to Resolution 9697 and California Government Code Section 3508. Resolution 9697 needs to be revised to reflect the creation of the additional bargaining unit, and to change the assignment of the "police captain" and "police lieutenant" classifications from "Appendix B – Management Employees," to a new "Appendix H Police Management Employees."

FISCAL IMPACT: None

ENVIRONMENTAL REVIEW: N/A

ENCLOSURE: [Draft Resolution](#)

RECOMMENDATION: Adopt the amendments to Resolution 9697, Employer-Employee Relations Rules and Regulations, and a new appendix H to the resolution.

***2.10 FREMONT LANDSCAPING MAINTENANCE DISTRICT 88**

Adopt a Resolution Ordering the Preparation and Filing of the Annual Engineer's Report for Landscaping Assessment District 88 and Adopt a Resolution Stating the City Council's Intention to Levy Assessments for Landscape Assessment District 88 for Fiscal Year 2011/12

Contact Person:

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Executive Summary: Each year, the City levies annual assessments within Landscaping Assessment District 88 for public landscape maintenance. This District currently consists of 47 zones. These zones encompass subdivision tracts that were approved by the City without homeowners associations (HOA). This district maintains public landscaped areas benefiting the subdivision. State law requires two Council meetings to complete the annual assessment process. At this first meeting, staff recommends the City Council adopt resolutions ordering the preparation and filing of the enclosed annual Engineer's Report detailing calculations of the annual assessments and declaring intent to levy and collect annual assessments. The resolution sets a public hearing on the proposed levy for June 14, 2011. If the City Council approves the levy at the June meeting, the approved assessments will be forwarded to Alameda County for inclusion on property tax bills.

BACKGROUND: Both levies of ongoing annual assessments and establishment of new landscaping assessment districts are governed by the Landscaping and Lighting Act of 1972. This Act allows the City to levy and collect assessments for the purpose of funding installation, maintenance, and servicing of public landscaping and lighting improvements. The amount of the assessments levied on each parcel of land is based on the special benefit the parcel receives from the improvements. The County collects the assessment with property taxes and transfers the funds to the City.

The City Council formed Fremont Landscaping Assessment District 88 in December 1988. This is a citywide district that allows the creation of small landscape maintenance zones as a condition of approval of individual subdivision maps. It ensures ongoing maintenance of public landscaping improvements that are in or adjacent to the subdivisions and that complement their appearance. Each year, the City establishes the amount of money needed to maintain the public landscaping for each zone and levies an assessment on each lot in the zone sufficient to pay this amount. Formation of new zones (which begin as separate landscape assessment districts) and annexation into the citywide district is required, as a condition of subdivision approval, when a developer does not form a homeowners association to maintain public landscaping.

The City must also comply with the requirements of Proposition 218. The voters adopted Proposition 218 in November 1996. Proposition 218 allows property owners to defeat, by majority protest, increases in assessments for any zone within the District or the formation of any new assessment district or zone. There are presently 47 zones in District 88. On June 24, 1997, the property owners in District Zones 1

through 37 (with the exception of Zones 18 and 22) authorized maximum assessment amounts to be established. In subsequent years, property owners authorized the formation of Zones 38 through 47 and authorized maximum assessments. District 88 now includes Zones 1 through 17, 19 through 21, and 23 through 47. District 88 does not include former Zones 18 and 22, for which property owners established majority protests in 1997. Also, Zones 2, 6, 12, and 16 are not assessed because the homeowners in these subdivisions received City Council approval to maintain the landscaping instead of having the City maintain the landscaping. The maximum assessments for each zone and the amount of the proposed levy for this year are shown in the Engineer's Report, Exhibit A. None of the existing zones is proposed for an assessment increase that would exceed the maximum assessment approved by the property owners on or after June 24, 1997.

DISCUSSION/ANALYSIS:

Annual Assessment for Existing Zones in District 88: In order to start proceedings for levying the ongoing annual assessment for District 88, the City Council must adopt two resolutions. The first resolution orders preparation of an Engineer's Report detailing calculation of the proposed annual assessment. The second resolution accepts and approves the Engineer's Report (which the City Council has received prior to this meeting and which the City Council may modify before approving), states the City Council's intent to levy and collect annual assessments, and sets a public hearing date of June 14, 2011.

Notice of the public hearing will be given by publication. At the hearing, the Council must consider oral and written protests to the assessment. However, the proposed zone assessments do not exceed the maximums established in 1997 for Zones 1 through 37 or established subsequently for Zones 38 through 47. Therefore, property owners cannot defeat the proposed assessments by establishing a majority protest.

New Assessment Districts: No new zones are proposed for the 2011/12 fiscal year.

Engineer's Report: Each year since the inception of Landscaping Assessment District 88, staff has prepared and submitted an Engineer's Report to the City Council. The City Engineer has prepared the report for fiscal year 2011/12. For each zone, the Engineer's Report lists the expected costs (including a reasonable contingency) for the new fiscal year and a carryover cost. The carryover cost is sufficient funds to pay for the first six months of maintenance because assessments are not collected by the County until property tax bills become due. The City's and the County's administrative costs in administering the assessment are also included. The total of these cost items is the gross assessment. A credit may then be applied to each zone, which consists of the projected zone balance as of the end of the current fiscal year less a reserve fund. The gross assessment less the credit for each zone is divided among its property owners to establish the annual net assessment for each property. The reserve fund formula is intended to "smooth" out large increases or decreases in the annual assessments. Generally, decreases in assessments have been limited to 10% while increases have been limited to a maximum of 20%.

Forty-one zones will be assessed in fiscal year 2011/12. The assessments for fiscal year 2011/12 have increased for eight zones, decreased for eight zones, and remained the same for twenty-five zones. Of the eight zones to increase, two exceed the 20% goal. In these zones, the reserve fund was not sufficient to offset unanticipated maintenance and water costs.

The annual assessments per lot vary considerably among the zones because of the difference in size and character of the landscaped areas and because of the number of lots in the zone. In previous years, the City Council took special action on Zone 2 (nine lots in Tract 5847), Zone 6 (eight lots in Tract 5950), Zone 12 (nine lots in Tract 5558), and Zone 16 (seven lots in Tract 6121) to allow the homeowners in these zones to take responsibility for the landscape maintenance themselves. This action foregoes the assessment of these zones as long as the homeowners are properly maintaining the landscaping. The homeowners in these four zones are maintaining the landscaping in a satisfactory manner.

The Engineer's Report, Table 2 – Historical Annual Assessments, lists the previous and proposed assessments for the existing forty-one zones.

FISCAL IMPACT: All City costs associated with maintaining and administering the District are covered by the annual assessments. There is no fiscal impact to the General Fund.

ENVIRONMENTAL REVIEW: None required.

ENCLOSURES:

- [Engineer's Report for Fremont Landscaping Assessment District 88 \(Zones 1-17, 19-21, and 23-47\)](#)
- [Resolution Ordering the Preparation and Filing of the Annual Engineer's Report for Landscaping Assessment District 88 for Fiscal Year 2011/12](#)
- [Resolution Stating the Council's Intent to Levy and Collect Assessments for Landscaping Assessment District 88 for Fiscal Year 2011/12](#)

RECOMMENDATION:

1. Adopt a resolution ordering the preparation and filing of the annual Engineer's Report for Landscaping Assessment District 88 for Fiscal Year 2011/12.
2. Adopt a resolution stating the intent of the City Council of the City of Fremont to levy and collect assessments for Fremont Landscaping Assessment District 88 for Fiscal Year 2011/12.

6.1 Report Out from Closed Session of Any Final Action

7.1 COUNCIL POLICY ON LABOR NEGOTIATIONS 2011: GUIDELINES

City Council Policy on Labor Negotiations 2011: Guidelines for Council Consideration

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Executive Summary: The City's Memoranda of Understanding with all labor associations are set to expire on June 30, 2011 and labor negotiations are in process or scheduled to begin shortly with each unit.

There are various laws and regulations that govern labor negotiations in Fremont including the Meyers-Milias-Brown Act (MMBA) and the City's Employer-Employee Relations Resolution (Resolution No. 9697). Recently, some cities have taken the additional measure of adopting policies on labor negotiations guidelines due to the challenging bargaining environment as a result of budgetary constraints. In accordance with Council direction, staff has prepared the attached Draft City Council Policy on Labor Negotiations 2011: Guidelines for Council Consideration.

BACKGROUND: On March 1, 2011, the City Council adopted FY 2011/12 Budget Balancing Strategies and Labor Relations Guidelines. The Memoranda of Understanding for all of the City's bargaining units are due to expire at the end of this fiscal year, June 30, 2011. Contract negotiations will be especially challenging during this bargaining cycle because of severe budgetary constraints resulting from economic conditions outside the City's control.

DISCUSSION/ANALYSIS: There are various laws and regulations that govern labor negotiations. The Meyers-Milias-Brown Act (MMBA) governs labor-management relations and collective bargaining in California local government, including cities. The California Public Employment Relations Board (PERB) is the administrative agency charged with administering the MMBA. Labor negotiations in Fremont are also governed by the City's Employer-Employee Resolution (Resolution No. 9697). In addition, the City must comply with the provisions of the Brown Act.

Meyers-Milias-Brown Act (MMBA)

The MMBA governs labor-management relations in California's local government, including cities, counties and most special districts.

The MMBA provides that the governing body of a public agency shall meet and confer in good faith regarding wages, hours and other terms and conditions of employment with representatives of recognized employee organizations (i.e. unions or bargaining units). The MMBA defines meeting and conferring in good faith as having the mutual obligation to personally meet and confer promptly upon request of either party and continue for a reasonable period of time in order to exchange freely information, opinions and proposals to endeavor to reach agreement on matters within the scope of representation.

City of Fremont Employer-Employee Relations Resolution (Resolution No. 9697)

In addition to the MMBA, the City of Fremont has local rules that govern collective bargaining between the City and the bargaining units.

The Employer-Employee Relations Resolution designates the City Manager as the Municipal Employee Relations Officer and, as such, is the City's representative in all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment. Resolution No. 9697 also authorizes the City Manager to delegate these duties and responsibilities to an authorized designee who shall serve as the City's principal representative in all matters of employer-employee relations.

Brown Act

The City Council provides negotiating parameters/authority to the City Manager in closed session. The Brown Act provides that a person may not disclose confidential information that has been acquired by being present in a closed session unless the Council authorizes disclosure of that confidential information.

Obligation to Negotiate in Good Faith

Both the City and the bargaining units have an obligation under the applicable laws to negotiate in good faith on matters that are within the scope of representation, which includes wages, hours and other terms and conditions of employment. Any one incident or act may not constitute bad faith bargaining, but rather it is analyzed based on the "totality of circumstances." Examples include direct dealing with bargaining unit representatives or persons acting on their behalf, delay tactics, regressive bargaining, surface bargaining, and bypassing the City or Union negotiating team. Bypassing can occur when either side bypasses the designated representatives, for example, by going directly to the City Council with proposals or concessions.

Recourse for an accusation of bad faith bargaining is through filing an unfair labor practice charge with the Public Employment Relations Board (PERB). PERB is a regulatory body which investigates unfair labor practices and interprets and protects the rights and responsibilities of employers, employees and employee organizations.

Draft Policy

In accordance with City Council direction, staff has developed a draft Council Policy (attached) with suggested guide lines for labor negotiation principles for Council to consider for adoption.

As stated in the policy, the purpose of the policy is to set guidelines for the City Council and Council staff, in the interest of promoting fairness and integrity in the process, to avoid actions that would circumvent the City's designated bargaining teams to ensure that the labor negotiations are conducted in good faith. Further, the draft Council Policy is intended to reinforce the City's obligation to meet and confer in good faith through the City's designated representatives and to avoid actions by the City Council and Council staff that may constitute bad faith bargaining.

FISCAL IMPACT: None

ENVIRONMENTAL REVIEW: None required

ENCLOSURE: [Draft Council Policy: Labor Negotiations 2011: Guidelines](#)

RECOMMENDATION: Review and consider for adoption the attached Draft Policy on Labor Negotiations 2011: Guidelines.

8.1 Council Referrals – None.

8.1.1 VICE MAYOR CHAN REFERRAL: Request Staff to Explore Reducing the Number of Regular City Council Meetings

The purpose of my referral is to request that staff explore reducing the number of regular Council meetings from four per month to three per month. On those occasions when an additional meeting(s) would be needed, with proper noticing, another meeting can be held.

ENCLOSURES: None

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
May 2, 2011	4-6 p.m.	Joint Council/FUSD Meeting	Council Chambers	Live
May 3, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 10, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 17, 2011	TBD	Work Session	Council Chambers	Live
May 24, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 31, 2011 (5 th Tuesday)		No Council Meeting		
June 7, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 14, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 21, 2011	TBD	Work Session	Council Chambers	Live
June 28, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 5, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 19, 2011	TBD	Work Session	Council Chambers	Live
July 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
		August Recess		
September 6, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 13, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 20, 2011	TBD	Work Session	Council Chambers	Live
September 27, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live